



September 4, 2008

**EX PARTE**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; IP-Enabled Services, WC Docket No. 04-36**

Dear Ms. Dortch:

Yesterday, Jim Kohlenberger of the Voice on the Net Coalition, Staci Pies of Skype and Paula Boyd of Microsoft (as members of the VON Coalition), Paul Garnett of CTIA- The Wireless Association, Brian Benison and Hank Hultquist of AT&T, Norina Moy of Sprint-Nextel Corp., Amy Wolverton of T-Mobile, Rebecca Schwartz of the Telecommunications Industry Association, Marc-Anthony Signorino of the National Association of Manufacturers, Paul Kouroupas of Global Crossing and Kathleen Grillo of Verizon met with Don Stockdale and Marcus Maher of the Office of the Bureau Chief of the Wireline Competition Bureau; Albert Lewis, Victoria Goldberg, Jay Atkinson, Rebekah Goodheart, Lynne Engledow, and Doug Slotten of the Pricing Policy Division; Carol Pomponio of the Telecommunication Access Policy Division; Nicholas Degani and Matt Warner of the Competition Policy Division; and Christopher Killion and Paula Silberthau of the Office of the General Counsel. The purpose of the meeting was to discuss the group's August 6, 2008 letter (attached).

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The group stressed broad industry support for Commission action to clarify the regulatory landscape and accommodate progress and innovation in the fastest growing segment of the industry – IP-based technologies and services. The views expressed at the meeting were consistent with the August 6 letter.

Sincerely,

AT&T	CTIA – The Wireless Association	Global Crossing
National Association of Manufacturers	Sprint Nextel Corp.	The Telecommunications Industry Association
T-Mobile	Verizon	The VON Coalition

Attachment

cc: Don Stockdale  
Marcus Maher  
Albert Lewis  
Victoria Goldberg  
Jay Atkinson  
Rebekah Goodheart  
Lynne Engledow  
Doug Slotten  
Carol Pomponio  
Nicholas Degani  
Matt Warner  
Christopher Killion  
Paula Silberthau



August 6, 2008

Chairman Kevin Martin  
Commissioner Michael Copps  
Commissioner Robert McDowell  
Commissioner Jonathan Adelstein  
Commissioner Deborah Taylor Tate

**Re: In the Matter of IP-Enabled Services, WC Docket No. 04-36; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92**

Dear Chairman Martin and Commissioners:

The undersigned companies<sup>1</sup> commend the Commission for its announcement that it intends to tackle the complicated task of intercarrier compensation reform by November of this

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<sup>1</sup>Although the undersigned parties do not always agree on matters of public policy, and indeed may not even agree on the specific details of intercarrier compensation reform, each company agrees that there is an urgent need for reform along the lines discussed in this letter and that such reform is critical to the continued deployment of IP and broadband services. The Voice on the Net Coalition's support is focused on comprehensive modernization of intercarrier voice compensation rates. Individual VON members may have distinct views on broader reform measures.

year. Now more than ever, it no longer makes sense to perpetuate a system that requires or permits terminating carriers to apply different rates to different traffic based on arbitrary distinctions. Comprehensive reform of the existing intercarrier compensation system is critical to accommodate progress and innovation, and to ensure technological and competitive neutrality. The first (and arguably most pressing) step in this reform process is for the Commission to clarify the regulatory requirements associated with the fastest growing segment of the communications industry – Internet Protocol (“IP”)-based technologies and services.

The undersigned parties urge the Commission to issue two rulings. First, the Commission should reaffirm that all IP-based voice services, if regulated at all, are subject to exclusive federal jurisdiction. Second, the Commission should establish uniform compensation rules applicable to *all* traffic exchanged with or on the public switched telephone network. The undersigned parties agree that these comprehensive rules ultimately should result in uniform terminating rates for all carriers at a level below existing intercarrier compensation rates. These uniform terminating rates should be no higher than the rate adopted by the Commission for the transport and termination of ISP-bound traffic (\$.0007 per minute). The Commission should require all carriers to make a reasonably prompt transition to these unified terminating rates. Finally, this transition should allow for appropriate alternative recovery mechanisms, if needed.

#### The Explosion of IP-based Voice Services

Today, more than ever, companies are investing in new, next-generation platforms based on IP technology. These revolutionary IP services, including Voice-over-IP (“VoIP”) services, up-end traditional concepts of location-based and device-based services, enabling customers to have a single number that reaches them, no matter where they are and what device (phone or computer) they are using. These services enable subscribers to utilize multiple service features that access different websites or IP addresses during the same communication session and to perform different types of communications simultaneously. In addition, they can route calls seamlessly to and from a wide variety of devices, some of which may be mobile, some of which may be nomadic and some of which may be fixed, and changeable at the user’s discretion. It is precisely these features, which resist traditional legacy telephone regulatory classification, that make possible vast new opportunities for consumers and businesses in urban and rural areas alike across the country.

Consumers and businesses are eagerly embracing the new and innovative, integrated packages of data, features and any-distance voice service that IP services make possible. At the same time, demand for traditional, circuit-switched voice services is declining. As a result, an ever-increasing proportion of traffic carried over the legacy, public switched telephone network will originate or terminate in IP format. Wireline and wireless companies are also developing their own facilities-based IP services, which will compete with both the cable companies’ fixed IP services as well as nomadic IP services that are available to any consumer with a broadband connection.

To foster the continued development and deployment of new and innovative IP services, as well as of the broadband platforms on which those services depend, the Commission must

ensure regulatory stability for IP service providers, applications developers, and equipment manufacturers.

### The Immediate Need for Regulatory Clarity

The Commission must take two steps to provide the IP industry with the regulatory clarity it sorely needs.

First, the Commission should reaffirm that all IP-based voice services that touch the PSTN — regardless of the technology or provider — are subject to the Commission's exclusive jurisdiction (to the extent they are regulated at all). In the Vonage order,<sup>2</sup> the Commission held that Vonage's over-the-top-VoIP service is jurisdictionally interstate and subject to the Commission's exclusive jurisdiction. The Commission held further that it would reach that same conclusion with respect to *any* VoIP service — including facilities-based VoIP service — that shares certain basic characteristics, the most important of which is the offering of a suite of integrated features and capabilities that allow customers to originate and receive voice communications and access those other features and capabilities simultaneously. In upholding the Commission's decision, the Eighth Circuit likewise noted the multiple service features that can come into play simultaneously with VoIP service.<sup>3</sup> Despite the Commission's clearly expressed intent to bring regulatory certainty to VoIP service through the *Vonage Order*, however, a number of state commissions continue to assert authority to regulate both facilities-based and over-the-top VoIP services. The industry needs immediate action by the Commission to ensure that IP-based services — which transcend traditional notions of geography and regulation — are not subject to a patchwork of 50 different regulatory regimes.

Second, the Commission should overhaul the existing intercarrier compensation regime and establish uniform compensation rules applicable to all traffic exchanged with or on the public switched telephone network. This reform should result in uniform terminating rates for all carriers no higher than the rate the Commission has adopted for the transport and termination of ISP-bound traffic (\$.0007 per minute). There is an urgent need for this action so that disputes over the compensation rules do not hinder the further development and growth of VoIP and other innovative IP-based communication services. And, unifying and simplifying these rules will spur innovation and the deployment of these IP services as well as the broadband networks they ride over. In the absence of comprehensive reform, however, the Commission should adopt default compensation rules for IP-based traffic that is exchanged with the public switched telephone network. These default rules should be geography and technology neutral and should not (as some before the Commission have suggested) saddle IP-based voice services with all of the same legacy rules that exist today for the exchange of circuit-switched traffic.<sup>4</sup>

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<sup>2</sup> *Vonage Holding Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404 (2004).

<sup>3</sup> *Minnesota Public Utilities Commission v. FCC*, 483 F.3d 570 (8th Cir. 2007).

<sup>4</sup> This issue has been thoroughly briefed in a number of proceedings before the Commission, and is fully ripe for resolution. See, e.g., *Developing a Unified Intercarrier*

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The Commission must focus on policies that will help spur the continued evolution to more advanced IP and broadband networks. If the Commission is to ensure the future growth and development of these services, it must not only eliminate multiple, and potentially capricious, compensation regimes. It must also create a uniform, rational compensation system. The evolution to IP-based services will create a more competitive environment and will bring new and innovative services to consumers in all areas of the country. However, for this trend to continue, the Commission must take these important steps and reject efforts to apply legacy regulation to the IP world — whether that involves state regulation or the legacy intercarrier compensation structure. By doing so, the Commission can ensure the continued development and deployment of new and innovative IP services, as well as of the broadband platforms on which those services depend.

Respectfully submitted,

AT&T	CompTIA	CTIA – The Wireless Association
Global Crossing	The Information Technology Industry Council	National Association of Manufacturers
New Global Telecom	PointOne	Sprint Nextel Corp.
The Telecommunications Industry Association	T-Mobile	Verizon
The VON Coalition		

cc: Daniel Gonzelez  
Amy Bender  
Nicholas Alexander  
Scott Bergmann  
Scott Deuchman  
Greg Orlando

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*Compensation Regime*, CC Docket No. 01-92, *Further Notice of Proposed Rulemaking*, 20 FCC Rcd 4685 (2005); *IP-Enabled Services*, WC Docket No. 04-35, *Notice of Proposed Rulemaking*, 19 FCC Rcd 4863 (2004); *Petition of Embarq Local Operating Companies for Limited Forbearance*, WC Docket No. 08-08; *Petition for Forbearance of Feature Group IP*, WC Docket No. 07-256.

Chairman Martin and Commissioners

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Matthew Berry  
Dana Shaffer  
Marcus Maher  
Julie Veach  
Randy Clarke  
Al Lewis  
Victoria Goldberg  
Tim Stelzig